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NINETEENTH JUDICIAL DISTRICT COURT  
PARISH OF EAST BATON ROUGE  
STATE OF LOUISIANA

NUMBER:

499737

DIVISION:

D

J. ROBERT WOOLEY, AS  
ACTING COMMISSIONER OF INSURANCE  
FOR THE STATE OF LOUISIANA

VERSUS

AMCARE HEALTH PLANS OF LOUISIANA, INC.

STATE  
FILED

PETITION FOR REHABILITATION, INJUNCTIVE RELIEF, AND  
RULE TO SHOW CAUSE

The petition of J. Robert Wooley, Acting Commissioner of Insurance for the State of Louisiana, hereinafter referred to as "the Commissioner" respectfully represents that:

1.

Defendant herein is AmCare Health Plans of Louisiana, Inc. ("AmCare"), a Louisiana health maintenance organization, authorized to do and doing business in this Parish and State.

2.

AmCare is a Louisiana corporation that holds a health maintenance organization license from the Department of Insurance for the State of Louisiana, and is therefore subject to the jurisdiction of the Commissioner and this Court pursuant to LSA-R.S. 22:1, LSA-R.S. 22:732, LSA-R.S. 22:732.1, LSA-R.S. 22:732.2, and LSA-R.S. 22:2001 et seq.

3.

LSA-R.S. 22:732-774, et seq. constitutes the sole and exclusive method of liquidation, rehabilitation or conservation of a Louisiana domiciled insurer.

4.

After an examination and review of the financial condition and affairs of AmCare, the Commissioner has found that AmCare is financially troubled, impaired, and has obligations and claims exceeding the minimum financial requirements set by statute, as shown by the affidavit attached hereto and incorporated herein. This provides sufficient grounds to justify the issuance of an order of rehabilitation under LSA-R.S. 22:734 and other applicable law.

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5.

The Commissioner has determined that the minimum surplus requirements mandated by applicable Louisiana law are not maintained by AmCare in accordance with law and that AmCare is currently below said minimum surplus requirements as shown in the affidavit attached hereto and incorporated herein. This provides sufficient grounds to justify the issuance of an order of rehabilitation under LSA-R.S. 22:733 and 734 and other applicable law.

6.

The current operations of AmCare endanger the interest of the creditors, policyholders, subscribers, members, enrollees, and the public, as shown in the affidavit attached hereto and incorporated herein. Therefore, the Commissioner of Insurance for the State of Louisiana has the power and authority to place AmCare in rehabilitation.

7.

The further transaction of business by AmCare, except with the concurrence of the Commissioner, would be hazardous to its policyholders, subscribers, members, enrollees, creditors and/or the public, and any delay in action by the Commissioner would endanger the interests of said policyholders, subscribers, members, enrollees, creditors, and/or the public, as shown in the affidavit attached hereto and incorporated herein.

8.

For the foregoing reasons, the Commissioner desires and is entitled to have this court issue an order forthwith, without hearing, declaring that AmCare is in need of rehabilitation under the Louisiana Insurance Code, and appoint the Commissioner as Rehabilitator, and appoint Barry W. Karns as Receiver, and any other deputy which he may designate.

9.

The Commissioner desires and is entitled to have an order of this Court forthwith, without hearing, directing the Commissioner, his agents and/or employees, to maintain possession and control of the property, business, affairs, bank accounts, safety deposit boxes, records, software, electronic data, e-mail, websites, copyrights, trademarks, patents, books, records, accounts and other assets of AmCare, including all real property, whether in the possession of AmCare or its officers, directors,

employees, consultants, attorneys, or agents, affiliates, subsidiaries, and of the premises occupied by them for their business and to liquidate and/or rehabilitate same.

10.

The Commissioner desires and is entitled, under the provisions of LSA-R.S. 22:734, to an injunction forthwith, without hearing, staying AmCare and its policyholders, subscribers, members, enrollees, shareholders, officers, directors, agents, attorneys, servants, and employees from disposing of property or assets and from the transaction of business by AmCare, except with the concurrence of the Commissioner until further order of this Court.

11.

The Commissioner desires and is entitled, under the provisions of LSA-R.S. 22:734, to an injunction forthwith, without hearing, staying any and all persons and entities from obtaining preferences, judgments, attachments or other like liens or the making of any levy against AmCare, its property and assets while in his possession and control.

12.

The Commissioner further shows that he is entitled to the right to enforce, for the benefit of the members, subscribers, enrollees, and policyholders of AmCare, contract performance by any party, provider or other third party who had a contract with AmCare and for such other relief as the nature of the case and the interests of AmCare's members, subscribers, enrollees, and policyholders, creditors or the public may require.

13.

The Commissioner further shows that he is entitled to enjoin AmCare from conducting any further business and engaging in any further advertising or solicitation whatsoever.

14.

The Commissioner further shows that he is entitled to permit such further operation of AmCare as he may deem necessary to be in the best interests of the members, subscribers, enrollees, and policyholders, to the end that the members, subscribers, enrollees, and policyholders will be afforded the greatest practical opportunity to obtain continuing health care coverage without further liability to the members, subscribers, enrollees and policyholders.

15.

Although the company has obligations and claims exceeding the minimum financial requirements set by statute, the Commissioner of Insurance is seeking an order of rehabilitation in an effort to locate a viable health maintenance organization or other health care insurer to assume the book of business currently being operated and/or managed by AmCare to ensure uninterrupted healthcare for the policyholders, subscribers, and members, enrollees.

16.

The Commissioner of Insurance further requests that AmCare be required to appear and show cause on a date and time to be set by this Court why the order of rehabilitation requested by the Commissioner should not continue in full force and effect.

**WHEREFORE**, J. Robert Wooley, Acting Commissioner of Insurance for the State of Louisiana, prays that this Petition for Rehabilitation and Injunctive Relief be accepted and filed and that an order issue forthwith, without hearing, herein:

- 1) Finding that sufficient cause exists for the rehabilitation of AmCare.
- 2) That AmCare be placed into rehabilitation and that the Commissioner be appointed Rehabilitator and that Barry W. Karns be appointed Receiver of AmCare.
- 3) That the Commissioner be vested by operation of law with the title to all property, business, affairs, accounts, bank accounts, safety deposit boxes, records and other assets of AmCare as of the date of the order of rehabilitation entered herein.
- 4) Directing the Commissioner, his agents and/or employees, to take possession and control of the property, business, affairs, bank accounts, safety deposit boxes, software, electronic data, e-mail, websites, books, records, accounts, copyrights, trademarks, patents, and all other assets of AmCare, including all real property, whether in the possession of AmCare or its officers, directors, employees, consultants, attorneys, subsidiaries, affiliates, or agents, and of the premises occupied by AmCare for its business, conduct all of the business and affairs of Amcare, or so much thereof as he may deem appropriate, manage the affairs of AmCare, and to rehabilitate same, until further order of this Court.
- 5) Enjoining AmCare, its policyholders, subscribers, members, enrollees, shareholders, officers, directors, agents, attorneys, accountants, actuaries, servants, employees, banks, savings and loan associations, and/or other entity or person acting for or on behalf of AmCare from disposing of the property, business, affairs, bank accounts, safety deposit boxes, software, electronic data, e-mail, websites, books, records, accounts, copyrights, trademarks, patents, and all other assets of AmCare, including all real property, and from the transaction of the business of AmCare, until further order of this Court.
- 6) Enjoining AmCare, its policyholders, subscribers, members, enrollees, shareholders, officers, directors, agents, accountants, attorneys, actuaries,

servants, employees, banks, savings and loan associations, and any other partnership, company or entity controlled by same and/or other persons acting for or on behalf of AmCare, from disposing of the property, business, affairs, bank accounts, safety deposit boxes, software, electronic data, e-mail, websites, books, records, accounts, and other assets of AmCare, including all real property of AmCare and from the transaction of its business except with the concurrence of the Commissioner, until further order of this Court.

- 7) Pursuant to La. R.S. 22:734, an injunction issue forthwith staying any person from obtaining preferences, judgments, attachments or other like liens or the making of any levy against AmCare, its property and assets while in the Commissioner's possession and control.
- 8) The Commissioner be immediately vested with and/or maintain the authority to enforce, for the benefit of the members, enrollees, subscribers, and policyholders of AmCare, contract performance by any provider or other third party who contracted with AmCare in accordance with LSA R.S. 22:738 (B), and for such other relief as the nature of the case and the interest of the insurer's policyholders, subscribers, members, enrollees, stockholders, creditors or the public may require.
- 9) The Commissioner be entitled to the right to enforce, for the benefit of the policyholders, subscribers, members, enrollees of AmCare, contract performance by any party who had contracted with AmCare.
- 10) The Commissioner be entitled to permit such further operation of AmCare as he may deem necessary to be in the best interests of the policyholders, subscribers, members, and enrollees, and creditors of AmCare and the orderly rehabilitation of AmCare.
- 11) All authority of all officers, directors, and managers of AmCare be suspended and all authority of said officers, directors and managers be vested in the Commissioner.
- 12) The Rehabilitator and Receiver of AmCare and be allowed and authorized to:
  - a) Employ and authorize the compensation of accountants, clerks, and such assistants as he deems necessary, and authorize the payment of the expenses of these proceedings and the necessary incidents thereof, as approved by the Court, out of the funds or assets of AmCare in the possession of the Receiver or coming into AmCare's possession;
  - b) Defend or not defend legal actions wherein AmCare or the Receiver is a party defendant, commenced prior to or subsequent to the entry of the order herein, without the authorization of the Court, except, however, in actions where AmCare is a nominal party, as in certain foreclosure actions and the action does not affect a claim against or adversely affect the assets of AmCare, the Receiver may file appropriate pleadings in his discretion;
  - c) Commence and maintain all legal actions necessary, wherever necessary, for the proper administration of this receivership proceeding;
  - d) Collect all debts, which are economically feasible to collect and which are due and owing to AmCare;

- e) Take possession of all of AmCare's securities and certificates of deposit on deposit with any financial institution or any other person or entity, if any, and convert to cash so much of the same as may be necessary, in his judgment, to pay the expenses of administration of this receivership.
- 13) Any officer, director, manager, trustee, agent or adjustor of AmCare and any person who possesses or possessed any executive authority over, or who exercises or exercised any control over any segment of AmCare's affairs be required to fully cooperate with the Receiver and the Commissioner, notwithstanding their dismissal pursuant to the order entered herein.
- 14) All attorneys employed by AmCare as of the date of the order entered herein shall, within ten (10) days notice of the order entered herein, report to the Receiver or Commissioner on the name, company, claim number and status of each file they are handling on behalf of AmCare. Said report shall also include an account of any funds received from or on behalf of AmCare. All attorneys described herein are hereby discharged as of the date of the order entered herein unless the Receiver or Commissioner retains their services in writing. All attorneys employed by AmCare who are in possession of litigation files or other material, documents or records belonging to or relating to work performed by the attorney on behalf of AmCare shall deliver such litigation files, material, documents or records intact and without purging to the Receiver notwithstanding any claim of a retaining lien, which, if otherwise valid, shall not be extinguished by such turn-over of documents.
- 15) Reinsurance amounts due to or payable by AmCare shall be remitted to, or disbursed by the Receiver at the Receiver's discretion and with the consent of the court where required by law. The Receiver shall handle reinsurance losses recoverable or payable by AmCare. All correspondence concerning reinsurance shall be between the Receiver and the reinsuring company or intermediary unless otherwise authorized by the Receiver.
- 16) Upon requests by the Receiver, any company providing telephone services to AmCare shall provide a reference of calls from the number presently assigned to AmCare to any such number designated by the Receiver or perform any other services or changes necessary to the conduct of the receivership of AmCare.
- 17) Any bank, savings and loan association, financial institution, and any other person or entity which has on deposit, in its possession, custody or control any funds, accounts and any other assets of AmCare, be ordered to immediately transfer title, custody and control of all such funds, accounts, or assets to the Receiver, and instructed that the Receiver has absolute control over such funds, accounts and other assets. The Receiver may change the name of such accounts and other assets, withdraw them from such bank, savings and loan association or other financial institution or take such lesser action necessary for the proper conduct of this receivership. No bank, savings and loan association, or other financial institution, person or entity exercise any form of set-off, alleged set-off, lien, any form of self help whatsoever, or refuse to transfer any funds or assets to the Receiver's control without the permission of this Court.
- 18) Any entity furnishing telephone, water, electric, sewage, garbage or trash removal services to AmCare shall maintain such service and transfer any such accounts to the Receiver as of the date of the order entered herein, unless instructed to the contrary by the Receiver.

- 19) Any data processing service which has custody or control of any data processing information and electronic records, including, but not limited to, e-mails, websites, voice mails, source documents, data processing cards, input tapes, all types of storage information, including, but not limited to, diskettes, CDs, DVDs, zip drives, external storage devices, PDAs, master tapes or any other recorded information relating to AmCare transfer custody and control of such records to the Receiver.
- 20) The United States Postal Service be directed to provide any information requested by the Receiver regarding AmCare and to handle future deliveries of AmCare's mail as directed by the Receiver.
- 21) The Receiver be authorized to conduct an investigation of AmCare and its subsidiaries and affiliates to uncover and make fully available to the Court the true state of AmCare's financial affairs. In furtherance of this investigation, AmCare and its parent corporations, its subsidiaries, its affiliates, owners, officers, directors, managers, attorneys, trustees, agents, adjusters, employees, or independent contractors of AmCare and its third party administrators, shall make all books, documents, accounts, records and affairs, which either belong to or pertain to AmCare available for full, free and unhindered inspection and examination by the Receiver during normal business hours, Monday through Friday, from the date of the order entered herein. AmCare and the above-specified entities shall fully cooperate with the Commissioner and the Receiver, including, but not limited to, the taking of oral testimony under oath of AmCare and its owners, officers, directors, managers, trustees, agents, adjusters, employees, or independent contractors of AmCare, its affiliates and subsidiaries and any other person or entity who possesses any executive authority over, or who exercises any control over, any segment of the affairs of AmCare in both their official, representative, and individual capacities and the production of all documents that are calculated to disclose the true state of AmCare's affairs.
- 22) AmCare shall not engage in any advertising or solicitation whatsoever.
- 23) An injunction issue herewith enjoining AmCare, its members, subscribers, enrollees, and policyholders, shareholders, officers, directors, agents, accountants, attorneys, servants, employees, actuaries and any other partnership, company or entity controlled by same and/or other persons acting for or on behalf of AmCare, or subject to their control, and all other persons or entities who have access to, control or possession of the property, assets, and affairs of AmCare, as follows:
  - a) from disposing of or encumbering any of the property or assets of AmCare;
  - b) from disposing of any records or other documents belonging of AmCare or relating to the business and affairs of the of AmCare;
  - c) from the transaction of any business by, for, or on behalf of AmCare, including, but not limited to:
    - i) the writing, issuance or renewal of any certificate of coverage, insurance policy, binder, or endorsement to an existing policy or certificate of coverage;
    - ii) the payment of claims and of any policy or certificate of coverage benefits;
    - iii) the incurring of any claim or loss adjustment expense;

- iv) the incurring of any debt or liability; and
  - v) the interfering with the acquisition of possession by the exercise of dominion and control over the property of AmCare by the Commissioner, or the Commissioner's conduct of the business and affairs of AmCare
- 24) Any and all individuals and entities be enjoined from instituting and/or taking further action in any suits, proceedings, and seizures against AmCare, the Commissioner in his capacity as rehabilitator of AmCare, the Receiver, and any affiliates, subsidiaries, insurers, officers, directors, representatives, agents, employees, accountants, or attorneys of same, to prevent any preference, judgment, seizure, levy, attachment, or lien being rendered against AmCare, its estate and assets, and/or its members, subscribers, enrollees, and policyholders, the Commissioner in his capacity as rehabilitator and/or liquidator, the Receiver, any affiliates, subsidiaries, insurers, officers, directors, representatives, agents, employees, or attorneys of same, and the making of any levy against AmCare, its property or assets.
- 25) Except with the concurrence of the Commissioner or until further written order of this Court, all suits, proceedings, and seizures against AmCare and/or its respective members/enrollees/subscribers be stayed in order to prevent the obtaining of any preference, judgment, seizure, levy, or lien, and to preserve the property and assets of AmCare, including, but not limited to, suits and proceedings and all litigation where:
- a) AmCare is a party;
  - b) A member, subscriber, enrollee, policyholder or any other person who is named as a party to the litigation claims insurance coverage under any policy of insurance, subscriber agreement or certificate of coverage issued or assumed by AmCare;
  - c) The litigation involves or may involve the adjudication of liability or determines any possible rights or obligations of any member, subscriber, enrollee, policyholder or person as to any insurance policy, subscriber agreement, or certificate of coverage issued or assumed by AmCare, or determines any possible future liability of AmCare with regard to any insurance policy, subscriber agreement or certificate of coverage issued or assumed by AmCare;
  - d) AmCare would otherwise be obligated to provide a defense to any party in any court pursuant to any policy of insurance, subscriber agreement, or certificate of coverage issued or assumed by AmCare;
  - e) The ownership, operations, management and/or control of AmCare is at issue; and
  - f) Any party is seeking to create, perfect or enforce any preference, judgment, attachment, lien or levy against AmCare or its assets or against any member, subscriber, enrollee and/or policyholder of AmCare.
- 26) It be ordered that there shall be no liability on the part of, and that no cause of action of any nature shall exist against the Commissioner in his capacity as rehabilitator, receiver, liquidator and/or regulator of AmCare and/or the Attorney General of the State of Louisiana in his capacity as attorney for the Commissioner as rehabilitator,



receiver, liquidator and/or regulator of AmCare, and/or the Receiver, their representatives, agents, employees, or attorneys, for any action taken by them when acting in accordance with the orders of this Court and/or in the performance of their power and duties as rehabilitator, liquidator, receiver, and/or regulator of AmCare.

- 27) All participating and non-participating providers of AmCare be enjoined from seeking to collect and/or collecting any amounts claimed as payment for services rendered to AmCare, its enrollees, members, subscribers, and policyholders from any said enrollee, member, policyholder and/or subscriber of AmCare, except for co-payments, deductibles, and co-insurance as defined by AmCare.
- 28) The provisions of LSA-R.S. 22:250.32 C) and 22:250.33 C) and the provisions of any contractual agreement with respect to the late payment penalties, interest, attorneys fees, adjustments or other such charges be suspended.
- 29) Any and all individuals and entities be enjoined from interfering with these proceedings, or with the Commissioner's possession and control or title, rights or interest; from interfering with the conduct of the business of AmCare by the Commissioner; from wasting the assets of AmCare, and from obtaining preferences, judgments, attachments or other like liens or the making of any levy against AmCare or its property and assets while in the possession and control of the Commissioner.
- 30) All premiums and all other debts and payables due to AmCare shall be paid to the Commissioner.
- 31) That an order issue forthwith that all contracts between AmCare and any and all persons or entities providing services to AmCare and its policyholders, members, subscribers and enrollees remain in full force and effect, until further order of this Court.
- 32) The Commissioner be permitted to notify every holder of a certificate of coverage, subscriber agreement, or contract of insurance issued by AmCare and every known provider and other creditor of AmCare of the order of rehabilitation and injunction entered herein within forty-five (45) days of the date of this order, notwithstanding the provisions of LSA-R.S. 22:737.1.
- 33) The Commissioner be granted all legal and equitable relief as may be necessary to fulfill his duties as rehabilitator and for such other relief as the nature of the case and the interests of AmCare's members, enrollees, subscribers, policyholders, providers and other creditors, or the public, may require, including but not limited to the Receiver's appointment and authorization to prosecute all action which may exist on behalf of policyholders, members, stockholders or creditors of the insurer against any existing or former officer, director or employee of AmCare or any other person.
- 34) A Rule be issued herein to AmCare setting forth a date and time, fixed by this Court, to show cause why this Court should not find, order and declare that sufficient cause exist for the rehabilitation; and further order and direct the Commissioner, his agents and/or employees to take and/or maintain possessions of all the affairs, property, business, books, records, claim files, account, bank accounts, safety deposit boxes, software, electronic data, e-mail, websites, copyrights, trademarks, patents, and all other assets of AmCare, including all real property and the premises occupied by AmCare, whether in possession of defendants or their officers, directors, employees, consultants, attorneys, agents, or any other person acting on their behalf to conduct their business and liquidate the same according to law; and why the other relief prayed for and granted herein should not be continued.

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And for all other appropriate relief.

**RESPECTFULLY SUBMITTED,**

BY ATTORNEYS FOR

J. Robert Wooley

Acting Commissioner of Insurance  
for the State of Louisiana

Martinez & Buser, LLC

BY:



Sue Buser #18151

Richard W. Martinez #17040

1518 Highway 30 East

Gonzales, LA 70737

Telephone: (225) 644-6100

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- CIVIL**
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
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DEPUTY CLERK OF COURT

19th JUDICIAL DISTRICT  
EAST BATON ROUGE PARISH, LA.  
FILED

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BY   
DEPUTY CLERK & REC'D FOR  
DOUG WELBORN  
CLERK OF COURT